

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NOLIN RURAL ELECTRIC COOPERATIVE CORPORATION	)	
_____	)	
ALLEGED FAILURE TO COMPLY WITH KRS 278.020	)	CASE NO. 2011-00376

ORDER

On December 22, 2010, Nolin Rural Electric Cooperative Corporation (“Nolin”) filed an application seeking approval for a Certificate of Public Convenience and Necessity (“CPCN”) to construct certain improvements and additions to its existing plant.<sup>1</sup> In support of its application, Nolin filed a copy of its 2010–2013 Construction Work Plan (“CWP”) for the period beginning December 1, 2010 through November 30, 2013. Nolin’s CWP contains proposed improvements and additions to its plant that are required over the three-year period in order for Nolin to serve its load.

During the discovery phase in Case No. 2010-00518, Nolin revealed that it had begun construction on certain projects contained in its 2010–2013 CWP prior to obtaining the requisite CPCN.

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<sup>1</sup> Case No. 2010-00518, Application of Nolin Rural Electric Cooperative Corporation for a Certificate of Public Convenience and Necessity to Construct Facilities According to the Applicant’s 12/01/10–11/30/13 Construction Work Plan (Ky. PSC, Sept. 6, 2011).

KRS 278.020 provides, in relevant part, that:

No person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public or begin the construction of any plant, equipment, property, or facility for furnishing to the public any of the services enumerated in KRS 278.010, except retail electric suppliers for service connections to electric-consuming facilities located within its certified territory and ordinary extensions of existing systems in the usual course of business, until that person has obtained from the Public Service Commission a certificate that public convenience and necessity require the service or construction.

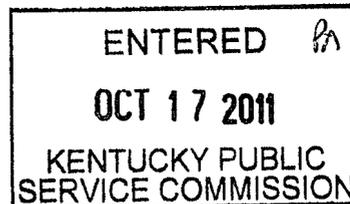
More than a year prior to filing its application for a CPCN in Case No. 2010-00518, Nolin was specifically placed on notice by Commission letter to Nolin dated November 12, 2009 that construction work plans involve significant capital expenditures for new facilities and, therefore, construction work plans are not deemed ordinary extensions in the usual course of business. Thus, construction work plans are not exempt from the CPCN requirements of KRS 278.020(1). The November 12, 2009 letter further specifically stated that a CPCN shall be obtained for all work plans prior to beginning construction of the facilities contained in those work plans.

Because Nolin has apparently failed to obtain a CPCN before beginning the construction described in its 2010-2013 CWP, the Commission finds it necessary to investigate this matter further. The Commission finds that a prima facie case has been made that Nolin violated KRS 278.020(1) by beginning construction without first obtaining a CPCN. Therefore, the Commission establishes this investigation into Nolin's apparent failure to comply with KRS 278.020 in order to determine whether it is appropriate to assess a civil penalty pursuant to KRS 278.990 for Nolin's apparent violation of KRS 278.020.

The Commission, on its own motion, HEREBY ORDERS that:

1. Nolin shall submit to the Commission, within 20 days of the date of this Order, a written response to the allegations contained in this Order.
2. Nolin shall appear on January 10, 2012 at 10:00 a.m., Eastern Standard Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard in Frankfort, Kentucky, for the purpose of presenting evidence concerning the alleged violations of KRS 278.020 and to show cause why it should not be subject to the penalties prescribed in KRS 278.990(1) for this alleged violation.
3. At the scheduled hearing in this matter, Nolin shall be prepared to present evidence on the adequacy and reasonableness of its practices related to ensuring that CPCN filings are timely and properly made and whether such practices require revision.
4. The January 10, 2012 hearing shall be recorded by videotape only.
5. Any request for an informal conference with Commission Staff shall be set forth in writing and filed with the Commission within 20 days of the date of this Order.
6. The record of Case No. 2010-00518 shall be incorporated herein by reference.

By the Commission



ATTEST:

  
Executive Director

Michael L Miller  
President & CEO  
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